THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20136 of 2005

13.9.2005

Between:

Smt.Chandrakala, W/o.Kashinath Uppe, MIG 125, APHB Colony,

Gatchibowli, Ranga Reddy District.

… Petitioner

AND

1. The Andhra Pradesh Housing Board, Bharathnagar, Hyderabad

and two others.

… Respsondents

ORDER:

The petitioner was allotted a house bearing No.125 MIG at Gatchibowli by A.P. Housing Board in November 2003. According to the petitioner, on eastern side of the said house there was a vacant land admeasuring 72 Sq.yards belonging to the Housing Board. She made a representation dated 18.11.2001 to the third respondent requesting for allotment of the land. The second respondent issued 'No Objection Certificate' (NOC) on 19.11.2003 permitting the petitioner to mortgage the property in favour of Central/State Government/LIC/HDFC/SBI. It was also mentioned therein that after the payment of the entire sale consideration, sale deed would be registered in favour of the petitioner and sent to the mortgagee. The price of the house and the total amount paid by the petitioner were also indicated in the NOC. It was also mentioned therein that the cost of the excess land adjacent to the petitioner's house would be Rs.71,934.50. Be that as it is, the petitioner obtained a loan from ICICI Bank whereupon the Housing Board executed a sale deed on 01.4.2004. However, the petitioner did not pay any amount for the excess vacant land admeasuring 72 Sq.yards, which was allegedly allotted to her. On 15.6.2005, she addressed a letter to the third respondent informing that she could not pay the amount for the excess vacant land and requested two weeks' time for payment of the amount. She also alleges that thereafter she made attempts to pay the amount to the third respondent, in vain.

In the second week of September 2005, A.P. Housing Board issued a notice proposing to conduct public auction of fourteen vacant sites/plots adjacent to the constructed houses. The land admeasuring 264.44 Sq.yards adjacent to house No.125 MIG, Phase-IV at Gatchibowli is one of such plots. The petitioner, therefore, filed the present writ petition seeking a writ of Mandamus declaring the action of the Housing Board in auctioning 72 Sq.yards as illegal and arbitrary.

Learned Counsel for the petitioner, Sri P.Keshava Rao, strenuously contends

that by reason of NOC dated 19.11.2003 granted by the second respondent, it is not competent for the Housing Board again to auction the same land. He would submit that the petitioner has already been ready and willing to pay the cost of excess vacant land admeasuring 72 Sq.yards and it is only the respondents, who avoided for receiving the payment. **Per contra**, the learned Standing Counsel for A.P. Housing Board, Sri J.Prabhakar, contends that the land admeasuring 72 Sq.yards on the eastern side of the petitioner's house was never allotted to the petitioner. Secondly, he would urge that the total extent of vacant land is prescribed as common plot admeasuring 264.44 Sq.yards and therefore, as per the orders of the Government in G.O.Ms.No.38, dated 30.5.1997, it is not competent for the Housing Board to sell the land to the adjacent house owner without conducting any auction.

A copy of the Government Order is placed before this Court. Under the said G.O., the Government of A.P. permitted the A.P. Housing Board to sell stray pieces of lands measuring 100 Sq.yards and above by conducting public auction and to sell stray pieces of land measuring less than 100 Sq.yards to the adjacent house owners on the current market value. In that view of the matter, the Housing Board could not have been validly sold to the petitioner. Secondly, a reading of NOC dated 19.11.2003 issued by the second respondent would show that A.P. Housing Board expressed no objection for mortgaging allotted house to Central/State Government or any public loan advancing Institutions like LIC/HDFC/SBI. It does not in any manner lead to an inference that the said 72 Sq.yards of land adjacent to the house of the petitioner was allotted to the petitioner or the Housing Board permitted her to mortgage the same.

For the brief reasons as above, the petitioner does not have any right to challenge the auction being conducted by A.P. Housing Board on 14.9.2005. If so advised, it shall be open to the petitioner to participate in the auction. The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

September 13, 2005.

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